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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,192	11/03/2003	Edgar A. Otto	7313-1-1	3954

30448 7590 09/29/2004

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EXAMINER

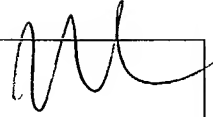
PHILLIPS, CHARLES E

ART UNIT PAPER NUMBER

3751

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/700,192	Applicant(s) OTTO ET AL. 	
	Examiner Charles E. Phillips	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-11, 13-20, 22-30, 32-34 and 36-41 is/are rejected.
- 7) ☒ Claim(s) 12, 21, 31 and 35 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/04</u> . | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 7, 8, 13-15, 18, 22, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kraus in view of DeBring and Cord.

Kraus teaches a urine collection device having a receptacle 20, 140, a reservoir 30 and a pump 40. Lacking is the disposition of the pump as claimed. DeBring teaches such a disposition in Fig. 1 of a peristaltic pump in a liquid collection device. To employ this pump in lieu of 40 of Kraus would have been obvious substitution of known devices both shown used in a liquid collection device. Regarding the recitation of the upper and lower surfaces see Fig. 4 of Cord where a urine receptacle is seen to have an upper surface located at an angle of about 25 degrees relative to a lower surface. While no specific number of degrees are set forth, the appearance is the same as the instant invention and as same is taught for use in an identical art device it would have been obvious to provide the combination with such a surface as depicted here.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Li.

See element 18 of Li which use in the similar art device supra would have been obvious in order to provide a seal.

Claims 10, 11, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Kimura et al.

To provide for the expedient of a handle such as 9 of Kimura et al would have constituted an obvious expedient of choice in design, as would the corner location of the hose at 13.

Claims 2, 3 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim1 above, and further in view of Bribara.

To further employ the expedient of a wheeled frame as taught by Bribara would have been obvious to the ordinary artisan as this is taught in an identical art device.

Claims 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim1 above, and further in view of Jones.

To provide a tissue holder in a location convenient to a user such as taught at 18 of Jones would have been obvious expedient.

Claims 5, 16, 25 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim1 above, and further in view of Hirsch et al.

To employ the expedient of a quick release wherever needed or desired such as taught by Hirsch et al at 22 would have been obvious to the ordinary artisan as same is taught in a like art device.

Claims 17, 20, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim1 above, and further in view of Holbrook et al.

To employ a check valve such as taught in Fig. 11 and a transparent container with indicia as taught at 30 would have constituted an obvious use of expedients shown to be known in an identical art device.

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Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Parks.

To provide for the pump here to be variable speed would have been obvious as same is shown to be known in a body treatment device at col. 4 lines 18-19 of Parks.

Claims 36, 37 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cord.

Cord provides full response here except for the specific recitation of the number of degrees of the orientation of the respective surfaces as seen in Fig. 4. The angle shown falls within this parameter; however, with the teaching of Cord at hand the degree parameter here would fall at least within an obvious extension of the Cord teachings. The claim 37 neck is seen at 4.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 36 above, and further in view of Li as applied to claim 9 supra.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 36 above, and further in view of Kimura et al as applied to claim 10 supra.

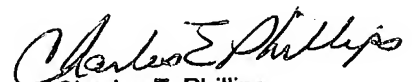
Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 36 above, and further in view of Holbrook et al as applied to claim 17 supra.

Claims 12, 21, 31 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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After completion of this action it was noted that there is no claim 6. Applicant should renumber the instant claims.

Any inquiry concerning this communication should be directed to Charles E. Phillips at telephone number 308-1515.


Charles E. Phillips
Primary Examiner